

Voluntary Report – Voluntary - Public Distribution

Date: September 30, 2022

Report Number: E42022-0060

Report Name: EU Parliament Adopts Negotiating Positions on Deforestation-Free Supply Chains and Renewable Energy

Country: European Union

Post: Brussels USEU

Report Category: Biofuels, Agriculture in the News, Climate Change/Global Warming/Food Security, Wood Products

Prepared By: Sophie Bolla

Approved By: Joseph Taylor

Report Highlights:

On September 13 & 14, the European Union Parliament adopted its negotiating positions on Deforestation-Free Supply Chains regulations and revisions to the Renewable Energy Directive. The two files will now enter trilogue negotiations, where the Council, Parliament, and Commission will work to reach a compromise text. On Deforestation, there are differences between their positions on the scope of covered products, legal definitions, the rate of inspection controls, due diligence requirements, and transparency in benchmarking assessments of third countries. On the Renewable Energy Directive, Parliament voted to cap of the share of primary woody biomass that counts towards the EU's renewable energy targets and limit public subsidies for their use. Parliament also proposed technical changes that would restrict the use of soy as a feedstock for biofuels. Trilogue negotiations between the three institutions will begin in the coming weeks.

General Information:

The European Union (EU) Parliament met in Strasbourg, France, from September 12-15, 2022, for the first Plenary since their summer break. During the week, Parliament voted to adopt its negotiating positions on two major Green Deal proposals originally drafted by the EU Commission in 2021: the revision to the Renewable Energy Directive (RED) and the Regulation on Deforestation-Free Supply Chains. The Council, which represents the EU Member States, adopted its positions on [RED](#) and [Deforestation](#) in June of 2022. The two files will now enter trilogue negotiations, where the Council, Parliament, and Commission will work to reach a compromise text. Trilogue negotiations are generally expected to last around 6 months.

Deforestation-Free Supply Chains Regulation

Parliament's [position](#) on Deforestation, adopted on September 13, differs from the Commission's proposal and the Council's position in some key respects.

The Commission originally proposed its Regulation on Deforestation-Free Supply Chains in December of 2021 as part of the EU's Farm to Fork Strategy. The Regulation aims to prevent products that contribute to deforestation or forest degradation from entering the EU market. It targets agricultural commodities identified by the Commission as the main drivers of deforestation: soy, beef, palm oil, wood, cocoa, and coffee. The proposal would impose mandatory due diligence requirements for companies wanting to sell these commodities in the EU and introduce a benchmarking system to assess countries based on their level of risk for deforestation and forest degradation. The risk level assigned to each country through the benchmarking system (low, standard, or high) would determine the level of scrutiny applied to the relevant products it exports to the EU. More information on the Commission's proposal can be found in GAIN Report [EU Commission Proposes Rules to Curb Deforestation Linked to Agricultural Production](#).

First, Parliament voted to expand the scope of the Regulation to include six additional commodities and their by-products: swine, sheep, goats, poultry, maize, and rubber. It also included additional HS codes in the wood, cattle, and palm oil categories, including charcoal, printed books, and dried or smoked meat of cattle. The Council's position, adopted in June of 2022, retained the six initial commodities but made several additions to the list of by-products (For the full list of Parliament and the Council's proposed scope of covered products, see Annex 1).

On legal definitions, Parliament adopted language regarding "deforestation" and "deforestation-free" that differs from the Commission and the Council.

Table 1. Proposed Legal Definitions of “Deforestation” & “Deforestation-free”

| Definitions | Commission | European Parliament | Council |
|---------------------------|--|---|--|
| Deforestation | ‘deforestation’ means the conversion of forest to agricultural use, whether human-induced or not; | ‘deforestation’ means conversion, whether human-induced or not, of forests or other wooded land to agricultural use or to plantation forest; | ‘deforestation’ means the conversion of forest to agricultural use, whether human-induced or not; |
| Deforestation-free | ‘deforestation-free’ means (a) that the relevant commodities and products, including those used for or contained in relevant products, were produced on land that has not been subject to deforestation after December 31, 2020, and (b) that the wood has been harvested from the forest without inducing forest degradation after December 31, 2020; | ‘deforestation-free’ means that the relevant commodities and products, including those used for or contained in relevant products, were produced on land that has not been subject to deforestation, and have not induced or contributed to forest degradation or forest conversion after 31 December 2019; | ‘deforestation-free’ means: (a) that the relevant products contain, have been fed with or have been made using relevant commodities that were produced on land that has not been subject to deforestation after December 31, 2021, and (b) in case of relevant products that contain or have been made using wood, that the wood has been harvested from the forest without inducing forest degradation after December 31, 2021; |

Parliament also wants to impose obligations for financial institutions operating in the Union that provide financial services to persons whose economic activities consist, or are linked to, the production, supply, sale, or export of the covered commodities in the EU.

Parliament and the Council supported the Commission’s proposal to benchmark countries as high, standard, or low-risk of deforestation. However, the Council requested some changes to “enhance fairness, transparency, objectivity, predictability and the framework for dialogue with third countries.” Specifically, the Council asked the Commission to make publicly available the data used for country benchmarking, the reasoning for a country’s benchmarking classification, and the official responses of the country being assessed. The Council expects the changes to “reinforce the legitimacy and legal compatibility of the Regulation as a whole, in particular with regard to WTO rules.”

There are notable differences between the three institutions regarding the due diligence requirements and inspection rates for products coming from high, standard, or low-risk countries. In the Commission’s proposal and the Council’s position, commodities sourced from low-risk countries would benefit from simplified due diligence requirements. Specifically, operators sourcing products from low-risk countries would not need to conduct risk assessments to establish whether those specific products comply with the requirements of the Regulation. Parliament proposes requiring risk assessments for products from low-risk countries as well, although they would be based on less-strict criteria than the ones for standard and high-risk countries of origin.

All three institutions support information requirements regarding the geolocation coordinates and date or time range of production as part of an operator’s due diligence, regardless of the country of origin’s risk level.

Finally, the three institutions differ on the rate of border control checks to be carried out by national authorities based on the country-of-origin’s risk-level.

Table 2. Proposed Inspection Rates Based on Country-of-Origin Risk Level

| | European Commission | European Parliament | Council |
|----------------------|----------------------------|----------------------------|---------------------------|
| Low risk | 5% | 5% | No minimum control levels |
| Standard risk | 5% | 5% | 1% |
| High risk | 15% | 20% | 5% |

Renewable Energy Directive Revision

On September 14, Parliament adopted its [position](#) on the revision of the 2018 Renewable Energy Directive (RED). In July of 2021, the Commission proposed updating the targets of the RED with a new overall renewable energy target of 40 percent. As part of the revision, the Commission also proposed amending the sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids, and biomass fuels. The Commission notably wants to ban the use of feedstock coming from primary forest, highly biodiverse forest, highly biodiverse grassland, wetlands, and continuously forested areas for forestry biomass (wood pellets). The Commission does not propose changing the cap for conventional/crop-based biofuels, which stays at 1 percent above Member State 2020 consumption levels, up to an overall cap of 7 percent of final consumption of road and rail transport for each Member State.

In its position, Parliament voted to limit how some forestry biomass feedstocks count towards the EU’s renewable energy targets. While primary woody biomass would still qualify, the amount that can be counted towards these targets would be capped based on its overall share of the EU’s solid biomass fuel mix from 2017-2022. Parliament therefore proposed creating a new classification that differentiates between “primary woody biomass” and other types of woody biomass, defining primary woody biomass as:

“all roundwood felled or otherwise harvested and removed. It comprises all wood obtained from removals, i.e., the quantities removed from forests, including wood recovered due to natural mortality and from felling and logging. It includes all wood removed with or without bark, including wood removed in its round form, or split, roughly squared or in other form, e.g., branches, roots, stumps and burls (where these are harvested) and wood that is roughly shaped or pointed. This does not include woody biomass obtained from sustainable wildfire prevention measures in high-risk fire prone areas, woody biomass obtained from road safety measures, and woody biomass extracted from forests affected by natural disasters, active pests or diseases to prevent their spread, whilst minimizing wood extraction and protecting biodiversity, resulting in more diverse and resilient forests, and shall be based on guidelines from the Commission.”

This definition of “primary woody biomass” does not currently exist in EU legislation and would be a shift from the 2018 Renewable Energy Directive. The Council did not make significant changes to the Commission’s original proposal on forestry biomass.

Parliament also voted to exclude primary woody biomass from receiving public subsidies for use in power installations with a total rated thermal input of 7.5 megawatts or higher. This exclusion is not present in the Commission’s proposal nor the Council’s position. All three institutions are in favor of ending subsidies for the use of saw logs, veneer logs, stumps, and roots to produce energy.

Regarding biofuels, Parliament proposed amending [Delegated Act 2019/807](#) in a way that would restrict the use of soy for biofuels, although soy is not explicitly banned in the Parliament’s position. Delegated Act 2019/807 establishes the criteria for determining high-risk Indirect Land Use Change (ILUC) feedstocks used for biofuels. It defines high ILUC-risk feedstock as feedstock for which:

- 1) The average annual expansion of the global production area since 2008 is higher than 1 percent, and;
- 2) The share of global production expansion into land with high carbon stock since 2008 is higher than 10 percent.¹

Given the Commission’s current calculations, palm oil meets both criteria and therefore falls under this definition.

Parliament has proposed lowering the maximum share of average global production expansion into land with high carbon stocks from 10 percent to 7.9 percent. Under the EU’s current calculations, soy sits at 8 percent and would be classified as a high-risk ILUC feedstock if the Parliament’s proposition is adopted. This change was not proposed by the Commission nor the Council and will need to be negotiated during trilogue discussions.

¹ Under [Delegated Act 2019/807](#), producers still have the possibility to certify their feedstock as low-risk ILUC if they comply with the general sustainability criteria of the RED and additional measures which are laid down in [Commission Implementing Regulation 2022/996](#).

Attachments:

[Annex I - Scope of the proposal - Parliament and Council's positions.pdf](#)